



## U.S. Department of Justice

Bureau of Alcohol, Tobacco,  
Firearms and Explosives

Martinsburg, West Virginia 25405

www.atf.gov

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This is in response to your letter to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Firearms Technology Branch (FTB), in which you inquired about various manufacturing activities and presented questions regarding the "validity" of FTB correspondence to the general public.

As you are aware, the amended Gun Control Act of 1968 (GCA), 18 U.S.C. 921(a)(3), defines a *firearm* to include any firearm muffler or firearm silencer. The GCA, 18 U.S.C. 921(a)(24), further defines "firearm silencer" and "firearm muffler" to mean *any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.* The NFA, 26 U.S.C. 5845(a)(7), also defines the term "firearm" to include a silencer.

Presented below, paraphrased and italicized, are questions from your letter, followed by FTB's answers:

Q. *May a Federal Firearms Licensee (FFL) install and transfer to a customer an AR-15 type "upper assembly" onto an AR-15 type "stripped" frame/receiver possessed by the FFL?*

A. If the FFL is assembling complete rifles from parts for resale, or if the gunsmith is selling the firearm to the customer, the gunsmith is performing alterations that constitute manufacture; the sale of the assembled or altered firearm by the gunsmith is, in fact, the manufacture of a firearm. If you plan to install such upper assemblies on existing, assembled firearms as a regular course of trade or business with the principle objective of livelihood and profit through the sale or distribution of these firearms, you do need to be licensed as a "manufacturer" (Type 07) in accordance with GCA provisions.



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*Q. Does the information found in FTB letters to the general public only apply to the individual or company requesting the information?*

*A. Yes. The information found in correspondence from our Branch is intended only for use by the addressed individual or company with regard to a specific scenario described within that correspondence.*

*Q. Would there be a violation of the NFA or GCA if a non-licensed manufacturer of a lawfully registered silencer, which utilizes an "automotive oil filter" as a component part, removes the deteriorated sound-absorbing material and replaces it with serviceable sound-absorbing materials?*

*A. Yes, replacement of any component part or parts of a registered silencer would be a violation of the NFA if performed by a non-licensed manufacturer. The non-licensee would have to submit an ATF Form 1, "Application to Make and Register a Firearm," and pay the \$200.00 making tax. Further, this individual would have to submit a "no-marking" variance to FTB since there is no viable area in which to apply a serial number to the sound-absorbing material.*

*Q. Can the "oil filter" described in the previous question as a component part of a firearm silencer be replaced by a non-licensed manufacturer, providing it does not change the overall length of the silencer?*

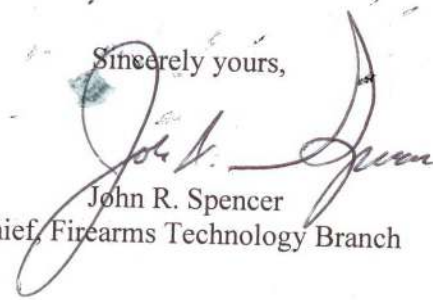
*A. No, replacement of any component part or parts of a registered silencer would be a violation of the NFA if performed by a non-licensed manufacturer. The non-licensee would have to submit an ATF Form 1 and pay the \$200.00 making tax.*

*Q. Does the possession of spare "oil filters" by a non-licensed manufacturer that are not installed on the registered silencer (muzzle adapter) violate any Federal laws?*

*A. Yes. Please note that certain commercially available items such as bottles, rubber washers, copper pads, and steel wool may be used to assemble firearm silencers. Such items are unregulated until a possessor assembles, accumulates, or otherwise intends to use an item of this type to make a silencer. Once such an item(s) is possessed with the intent to use in assembling or repairing a firearm silencer, it comes within the purview of the NFA and is properly classified as a "firearm silencer."*

We trust the foregoing has been responsive to your concerns. If FTB can be of any further assistance, please contact us.

Sincerely yours,

  
John R. Spencer  
Chief, Firearms Technology Branch